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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CALIFORNIA EDUCATION COMMITTEE, LLC and PRISCILLA SCHREIBER, Plaintiffs, v. ARNOLD SCHWARZENEGGER, in his official capacity as Governor of the State of California; EDMUND G. BROWN, JR., in his official capacity as Attorney General of the State of California; JACK O'CONNELL in his official capacity as California Superintendent of Public Instruction; and DOES 1 through 20 inclusive, Defendants.	Case No.: 07-CV-02246-BTM-WMC Judge: Hon. Barry Ted Moskowitz **DECLARATION OF GEOFFREY KORS IN SUPPORT OF EQUALITY CALIFORNIA'S MOTION TO INTERVENE AS A PARTY DEFENDANT**

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DECLARATION OF GEOFFREY KORS

I, Geoffrey Kors, hereby declare:

1. I am the Executive Director of Equality California. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

2. Founded in 1998, Equality California is California's leading lesbian, gay, bisexual and transgender (LGBT) public interest civil rights and advocacy organization. Equality California leads efforts for LGBT civil rights at the state level through an array of strategies including sponsoring and supporting legislation, lobbying legislators and other government officials, building coalitions, and empowering other organizations and individuals to engage in the political process. Equality California is dedicated to combating discrimination, harassment, and violence on the basis of sexual orientation and gender identity and protecting the needs and interests of LGBT people in the State of California, including students, parents, teachers and other school staff in California schools.

3. Equality California has tens of thousands of members in California, including LGBT youth who are students attending publicly-funded California schools, parents of LGBT students attending publicly-funded California schools, LGBT parents of students attending publicly-funded California schools, and LGBT teachers and other staff who work at publicly-funded California schools.

4. Equality California helps students, parents, teachers, and other school staff work with school administrators and legislators to enact and implement laws and policies that prevent harassment, discrimination, and violence in publicly-funded California schools. Equality California has worked with students and others throughout California to organize for the passage of statewide legislation to prevent harassment, discrimination, and hate violence against LGBT people in California, including in publicly-funded California schools.

5. Equality California was the official sponsor of Senate Bill 777 ("SB 777") and played a significant role in passage of the bill. This included working with Senator Sheila

Kuehl to draft the bill; gathering support for the legislation through action alerts to Equality California members, producing and distributing educational materials, and talking to community groups; testifying at legislative hearings and identifying youth witnesses to testify; and providing assistance to legislative staff regarding technical questions related to the bill.

6. In addition to sponsoring SB 777, Equality California has sponsored or co-sponsored four other bills aimed at protecting California students:

a. *The California Student Safety and Violence Prevention Act of 2000* (AB 537), which protects students in publicly-funded California schools from harassment and discrimination on the basis of actual or perceived sexual orientation and gender identity.[1] This bill passed the Legislature and was signed into law.

b. *The Safe Place to Learn Act of 2007* (AB 394), which requires the Department of Education to monitor the steps school districts have taken to ensure compliance with the California Student Safety and Violence Prevention Act of 2000 (AB 537). This bill passed the Legislature and was signed into law.

c. *The Safe Place to Learn Act of 2006* (AB 606), which would have required school districts to enforce California's anti-discrimination and anti-harassment and would have provided penalties for school districts found to be in violation of that law. This bill passed the Legislature but was vetoed by the Governor.

d. *The Bias-Free Curriculum Act of 2006* (SB 1437), which would have prohibited discrimination based on sexual orientation and gender identity in textbooks, classroom materials, and school-sponsored activities. This bill passed the Legislature but was vetoed by the Governor.

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[1] At the time AB 537 was passed, Equality California was operating as a 501(c)(4) organization under the name of California Alliance for Pride and Equality (CAPE), which co-sponsored the bill with the California Teachers Association. CAPE officially changed its name to Equality California in 2003.

7. Equality California was also the sponsor of SB 1234, the Omnibus Hate Crimes Act of 2004, which, among other things, revised the statutory definition of "gender" in California's hate crimes statute.

8. Equality California has also sponsored or cosponsored seven other bills that were enacted into law and that prohibit discrimination based on gender by referencing the definition of gender as defined in Section 422.56 of the Penal Code:

a. *AB 14, the Civil Rights Act of 2007*, which amended civil rights protections to conform to the Unruh Civil Rights Act, which includes protections based on sexual orientation and gender as defined in Section 422.56 of the Penal Code.

b. *AB 2800, the Civil Rights Housing Act of 2006*, which amended provisions that prohibit discrimination in housing and related areas to prohibit discrimination on the bases of the same characteristics covered in the Fair Employment and Housing Act, which includes protections based on sexual orientation and gender as defined in Section 422.56 of the Penal Code.

c. *SB 1441, the Nondiscrimination in State Programs and Activities Act (2006)*, which prohibits discrimination in state funded programs based on sexual orientation and gender as defined in Section 422.56 of the Penal Code.

d. *AB 1400, the Civil Rights Act of 2005*, which amended the Unruh Civil Rights Act to include express protections based on sexual orientation and gender as defined in Section 422.56 of the Penal Code.

e. *AB 1586, the Insurance Nondiscrimination Act* (2005), which prohibited discrimination by health care plans and insurers based on gender as defined in Section 422.56 of the Penal Code.

f. *AB 2900, the Omnibus Labor and Employment Nondiscrimination Act (2004)*, which amended existing employment discrimination laws to prohibit discrimination on the same bases covered in the Fair Employment and Housing Act, which includes sexual orientation and gender as defined in Section 422.56 of the Penal Code.

g. *AB 196, the Gender Nondiscrimination Act (2003)*, which prohibited discrimination in employment and housing based on gender as defined in Section 422.56 of the Penal Code.

9. Equality California has sponsored or cosponsored four bills that were enacted into law and that prohibit discrimination based on sexual orientation and gender identity:

a. *SB 518, the Juvenile Justice Safety and Protection Act (2007)*, which prohibited discrimination and harassment in Department of Juvenile Justice facilities based on sexual orientation and gender identity.

b. *AB 2920, the Older Californians Equality and Protection Act (2006)*, which provided that all older adults have equal access to programs and services provided through the Older Americans Act regardless of their sexual orientation or gender identity.

c. *AB 1207, the Code of Fair Campaign Practices (2006)*, which amended the Code of Fair Campaign Practices to prohibit candidates from appealing to negative prejudice based on an opponent's sexual orientation or gender identity.

d. *AB 458, the Foster Youth Anti-Discrimination Act of 2003*, which prohibited discrimination and harassment based on sexual orientation and gender identity in foster care.

10. Equality California is an Executive Committee member of the California Safe Schools Coalition (the "Coalition"), a statewide partnership of organizations and individuals dedicated to eliminating discrimination and harassment on the basis of actual or perceived

sexual orientation and gender identity in California schools. The Coalition's chief goal is to ensure the effective and comprehensive implementation of the protections against discrimination and harassment based on actual or perceived sexual orientation and gender identity in California Education Codes sections 200, 201, and 220. The Coalition achieves this goal through coalition building, advocating for effective implementation of the safe schools law with the California Department of Education and other statewide education agencies, conducting research and evaluation regarding anti-LGBT harassment and the specific solutions that schools can undertake to create safer school climates, and engaging in policy advocacy at both the state and local level.

11. Equality California was actively involved in a recent Coalition study that examined the incidence and effects of harassment based on sexual orientation and gender identity in California schools. The findings of this study, published in the Coalition's 2004 *Safe Place to Learn Report*, showed LGBT students are harassed at high rates in California schools, and that harassment based on sexual orientation and gender identity has dangerous consequences for students in California.

12. On October 15, 2007, representatives of Equality California testified at a hearing on school safety for transgender students sponsored by Senator Sheila Kuehl and the Senate Select Committee on School Safety. Equality California, the Gay-Straight Alliance Network, and the Coalition were the leading community organizers of this hearing. The purpose of the Senate Select Transgender School Safety Issues Hearing was to highlight the ways in which transgender and gender nonconforming students continue to face pervasive harassment and discrimination in California's schools and to identify strategies to achieve better implementation of the existing school safety laws that were designed to protect transgender students from harassment and discrimination. Equality California members, transgender and gender nonconforming students, parents of students, school administrators, legal experts, and safe schools researchers attended the hearing and testified in support of the importance of legal protections for transgender students.

13. As an active member of the Equality Federation, a national network of LGBT state advocacy organizations who are working to secure full civil rights for LGBT people, Equality California is intimately familiar with the nature, scope, and impact of discrimination against LGBT people in school settings, with how existing law has been applied, and with the development of non-discrimination laws and hate crimes laws in California and across the country.

14. Equality California's student members have a significant interest in attending publicly-funded California schools in a welcoming environment where they have equal access to education and are not harassed or discriminated against. The safety and well being of Equality California's student members who attend publicly-funded California schools would be adversely affected if the prohibitions against hate violence based on sexual orientation and gender in the California hate crimes statute or Education Code sections 220, 210.7, 212.6, and 51500 as amended by SB 777 were found unconstitutional.

15. Equality California's members who are parents of LGBT students in publicly-funded California schools have an interest in their children receiving an education free from discriminatory bias, as well as their children being protected against hate crimes based on sexual orientation and gender identity. In addition, Equality California's members who are LGBT parents and who have children who are students in publicly-funded California schools have an interest in their children receiving an education free from discriminatory bias based on sexual orientation and gender, as well as their children being protected against hate crimes based on their association with their LGBT parents.

16. Equality California's members who are LGBT teachers, administrators, or other school staff who work in publicly-funded California schools have an interest in working in an environment free from discriminatory bias based on their sexual orientation and gender and in being protected against hate crimes based on sexual orientation and gender.

17. The ability of students who are LGBT or who have LGBT parents, and of LGBT teachers and other school staff, to be protected from harassment, discrimination, and hate

violence in publicly-funded California schools is critical to implementing the goals of Equality California.

18. Equality California has many LGBT members who would be directly harmed if the prohibition of hate violence based on a person's actual or perceived sexual orientation or gender in the California hate crimes statute were invalidated.

19. Equality California has participated as a party in other lawsuits that either challenged or sought to uphold California laws that directly impact LGBT people. Equality California is a petitioner in *Woo v. Lockyer*, Appellate Court Case No. A110451 and also was granted leave to intervene in three of the other six consolidated lawsuits challenging California's statutory ban on marriage between same sex couples, *Tyler v. State of California*, California Appellate Court Case No. A110450, *Proposition 22 Legal Defense and Education Fund v. City and County of San Francisco*, California Appellate Court Case No. A110651, and *Campaign for California Families v. Newsom*, California Appellate Court Case No. A110652, which have now been consolidated as *In Re Marriage Cases*, California Supreme Court Case No. S147999. Equality California was also granted leave to intervene in *Knight v. Schwarzenegger*, Sacramento Superior Court Case Nos. AS05284 and AS07035, a case in which State Senator Pete Knight and others unsuccessfully challenged the validity of California's domestic partnership statute. *See Knight v. Superior Court,* 128 Cal.App.4th 14, 26 Cal.Rptr.3d 687 (Cal.App. 3rd Dist., 2005). Equality California likewise was granted leave to intervene in *Strong v. Board of Equalization*, California Appellate Case No. C052818, in which several county assessors challenged the validity of certain property tax protections for domestic partners.

I declare under penalty of perjury of the laws of the State of California and of the United States that the foregoing is true and correct. Executed this 21st day of December, 2007 in San Francisco, California.

Geoffrey Kors